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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS THOMAS G. BRUTON EASTERN DIVISION EASTERN DIVISION

	No.:
People of the State of Illinois) United States District
) Court for the Northern District of Illinois,
Plaintiff) Eastern Division
)
v.)
Crista E. Noel) 12cv10357 Judge Bucklo
Defendant(s)	Mag. Judge Schenkier

MOTION TO REVIEW AND VACATE STATE COURT JUDGMENT

NOW COME the Defendant, Crista Noel, by and through herself as attorney, and complaining of the Plaintiffs, Cook County State's Attorney & State of Illinois, state as follows:

- Her conviction of resisting arrest a peace officer from April 30, 2010 violated her civil rights and is in direct violation of her protections under the 4th Amendment of the United States.
- 2) Illinois Statute of Resisting Arrest is in violation of Constitutional law when it states that "even if an arrest is unlawful, you can be convicted of resisting arrest."
- 3) Illinois State Courts are inconsistent and in need of direction in upholding and charging the Resisting Arrest statute.

INTRODUCTION

This is an action brought pursuant to the First, Fourth, and Fourteenth Amendments to the United States Constitution and under Illinois State Law. Chapter 720 ILCS, Section 5/31-1 of the Illinois Compiled Statutes

- (a) A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer, firefighter, or correctional institution employee of any authorized act within his official capacity commits a Class A misdemeanor.
- (b) A person being arrested, in turn, has no right to use force to resist an arrest by a known police officer, even if the arrest is unlawful. 720 ILCS 5/7-7 (West 2004).

JURISDICTION AND VENUE

1. This Court has jurisdiction over the action pursuant to the Constitution of the United States of America; United States Civil Rights Act. Venue is proper in this District under 28 U.S.C. 1391, as all or most of the parties reside in this Judicial District, and the events giving rise to the claims asserted herein occurred in this Judicial District. Other Jurisdictions may apply.

BACKGROUND

Ms. Noel was illegal stop/ seized by Officer Bruno Coltri on January 1, 2009. Officer Coltri committed an act of aggravated battery against Ms. Noel and maliciously prosecuted her by charging her with a Felony Aggravated Battery and Resisting Arrest. On April 30, 2010, Ms. Noel was acquitted of the Felony Aggravated Battery at Bench trial by Judge Thomas Tucker, yet was convicted of Resisting Arrest. Ms. Noel immediately entered an appeal. On July 28, 2012, the Appellate Court of Illinois 1st District upheld her conviction of Resisting Arrest while ignoring the fact that she had been illegally stopped/ seized. Ms. Noel entered a Prayer for Leave to Appeal as a Matter of Right to the Illinois Supreme Court, which was denied on November 28, 2012. Ms. Noel has exhausted all appellate remedies at the State Level.

Ms. Noel notes for this Courts consideration that in People v McCoy 378 Ill. App. 3d 954 3rd District (2008), Presiding Judge McDade concurring in part and dissenting in part, states;

"In its written decision, the majority discusses extensively what can appropriately be characterized as the "unsettled" nature of the case law on resisting arrest. I agree that the cases are all over the board on what constitutes such resisting: Is talking enough? Does passive uncooperation suffice or is some active force or exertion required? The answers depend not only on the appellate district but, occasionally, on the specific panel or some compassionate tug generated by the defendant's circumstances. This situation necessarily results in uneven justice. I echo the majority's belief that clarification from the Supreme Court is needed in this area of the law."

CONCLUSION

For the foregoing reasons, Crista Noel, defendant, respectfully requests that this Court grant her motion for review, and vacate the State's Judgment against her, and to review and find that the Resisting Arrest Statute, as presently written and upheld in Illinois, violates the Constitutional protections of its citizens.

Respectfully submitted by,

Crista Noel Pro Se 219F Dodge Avenue Evanston, IL 60202

State of Ilinois
County of Cook

rista

Signed and attested before me on 12/27/1

(name/s od berson/s).

(Signature of Notary Public)

(Seal)

OFFICIAL SEAL

CHRISTOPHER LEE

Notary Public - State of Illinois

My Commission Expires Apr 7, 2015